

Crawley Borough Council

Report to Governance Committee

21 March 2022

Code of Conduct for Councillors

Report of the Monitoring Officer – LDS/178

1. Purpose

- 1.1. The purpose of this report is to put before the committee some minor changes to the Code of Conduct for Councillors and to confirm that the procedure for dealing with complaints made under the Code.

2. Recommendation

- 2.1. That the minor changes proposed in this paper be recommended to Full council for approval and incorporation in time for the new municipal year namely from the 9th May 2022.
- 2.2. That timetable set out at Section 7 report be approved.

3. Reasons for the Recommendation

- 3.1. To ensure that the Council's Code of Conduct is fit for purpose.

4. Background

- 4.1. At its meeting in September 2021, the Governance Committee approved the Monitoring Officer's recommendation not to adopt the new LGA Model Councillor Code of Conduct.
- 4.2. The Governance Committee had considered a report including a comparative analysis between the Council's current Code of Conduct and the new LGA Code.
- 4.3. It further agreed that the Council's current Code of Conduct be reviewed by the Monitoring Officer and that a revised code be presented to the Governance Committee on 25 January 2022. It was acknowledged that this may incorporate specific elements of the LGA Model Code. Unfortunately, this was not possible in time for the January meeting, hence it is tabled at the March meeting.
- 4.4. The Monitoring Officer also presents a slightly revised procedure for dealing with Code of Conduct complaints.
- 4.5. The Council is required to have a Code of Conduct and currently has one in place. There is no legal requirement for the Council to adopt any of the proposed changes.

5. Proposed changes

5.1. The Council's current Code of Conduct for Councillors is a robust document so does not need to be replaced. However, it is acknowledged that there are some positive aspects from the new LGA Code which can be added to the Council's Code.

5.2. The proposed changes are outlined below and indicated in red within Appendix A.

Topic	CBC current Code	New LGA Model Code	Proposal
<p>5.2.1</p> <p>When the Code Applies</p>	<p>When acting or 'appearing to act' in an official capacity</p> <p>2.1 'You must comply with this Code whenever you act or appear to act in your official capacity as a Councillor'.</p> <p>Does not list specific types of communication to which the Code applies</p>	<p>Employs a 'reasonable person' test, and applies when a matter/situation/subject relates to a Council function or Council business</p> <p>Applies when 'Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor'.</p> <p>The Code applies to specific types of communication (includes social media)</p> <p>'The Code applies to all forms of communication and interaction, including:</p> <ul style="list-style-type: none"> • at face-to-face meetings • at online or telephone meetings • in written communication • in verbal communication • in non-verbal communication • in electronic and social media communication, posts, statements and comments.' 	<p>Add slightly amended LGA Code wording to the existing section (see draft)</p> <p>Add exact LGA Code wording to the existing section as new sub-section 2. (see draft)</p> <p>Re-number 2(2) as 2(3)</p>
<p>5.2.2</p> <p>Compliance with the Code</p>	<p>3.6 You must not intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in any investigation or proceedings about a complaint that a Councillor (including yourself) has failed to comply with their Authority's Code of Conduct.....</p>	<p><i>8.1 I undertake Code of Conduct training provided by my local authority.</i></p> <p><i>8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.</i></p>	<p>Add 8.1 from LGA Code in 2nd person and slightly reworded as a new 3.6.</p> <p>Add 8.4 from LGA Code in 2nd person as a new 3.8.</p>
<p>5.2.3</p>	<p>CBC Code does not</p>	<p>The content below more or less</p>	<p>Replicate</p>

<p>Gifts and hospitality</p>	<p>include gifts and hospitality protocol – the provisions below are set out separately in the Constitution, but not specifically in the Code</p> <p>3.1 The Bribery Act 2010 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement or reward for doing or forbearing to do anything in respect of any matter or transaction in which the Council is concerned, you commit a criminal offence carrying a maximum term of imprisonment of 10 years or a fine or both.</p> <p>3.2 Under the Code of Conduct Councillors must register as a Personal Interest the receipt of any gift or hospitality with an estimated value of £50 or more received within the last three years. This must be done within 28 days of its receipt / acceptance.</p> <p>3.3 Councillors in any event are required to complete a Form of Declaration of receipt / acceptance of any gift or hospitality including refusal.</p>	<p>reflects CBC’s current policy – but it is not set out in the Code itself</p> <p>10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.</p> <p>10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.</p> <p>10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.</p>	<p>the Gifts & Hospitality provisions from Part 30 of the Constitution in the Code of Conduct as a new section 11.1, 11.2, 11.3.</p>
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5.3 The above changes were identified in the September 2021 report as ones which the Monitoring Officer would likely put forward.

5.4 With regard to the Procedure for dealing with Code complaints the proposed changes are set out below and indicated in red within Appendix B.

Location within Report Appendix B	Proposed change to Procedure for dealing with Code complaints
Para 2	Include clarification that the Councillor in question will be informed of the complaint against them at the same time as when the Monitoring Officer acknowledges receipt of the complaint (within 10 days of receipt).
Para 4	<p>The Monitoring Officer to be able to undertake basic enquiries at the initial screening stage.</p> <p>The Code complaints which have been received in recent years have been wide-ranging and the information provided by the complainant can be limited, inaccurate or technical in nature.</p> <p>An ability to carry out some basic enquiries could potentially make a difference in terms of achieving a fair outcome. It might also prevent a costly and time-consuming investigation which might otherwise be initiated due to a misunderstanding or inaccuracy.</p>
Para 3 & the Flowchart (inset Appendix D)	<p>A decision on the initial assessment of the complaint will normally be made within 15 working days of the acknowledgment of receipt of the complaint.</p> <p>This period should be increased to 20 working days.</p> <p>This will allow more time for the Monitoring Officer to perform the initial screening and if necessary undertake basic enquiries. Even if a complaint is rejected, a written explanation of the reasons for rejections must be provided.</p> <p>It is felt that building in more time at this stage will produce better quality outcomes and satisfaction levels whilst not significantly prejudicing the complainant or Councillor in question.</p>
Para 5	At this point in the process, when the Monitoring Officer (MO) is considering the complaint further, it is proposed to allow the MO to seek any clarification where required. This will help the MO to make a more informed decision on next steps.
Flowchart (inset Appendix D)	The way in which flowchart was previously arranged was confusing and it needed some reconfiguration. The amended layout is shown. No changes, except for the one indicated in red, have been made to the process which this flowchart seeks to summarise.

5.5. The views of the Independent Persons on the above changes will be provided at the Governance Committee meeting on 21 March.

6. Legal and Financial Implications

6.1. There is no legal requirement for the Council to adopt the LGA Model Code.

6.2. There are no financial implications.

7. Timetable

21 March 2022	Final report to Governance Committee with a revised Council Code and Procedure for Dealing with Code Complaints for consideration and potential referral to Full Council
30 March 2022	Revised Council Code and Procedure for Dealing with Code Complaints for consideration and adoption by Full Council
9 May 2022	Revised Council Code and Procedure for Dealing with Code Complaints come into effect
May / June 2022	Appropriate training for Members

8. Background Papers

Appendix A: Proposed Code of Conduct for Councillors

Appendix B: Proposed Procedure for Dealing with Code Complaints

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